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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,100	09/26/2001	Ikuo Ozawa	4041K-000036	3018

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EXAMINER	
CIRIC, LJILJANA V	

ART UNIT	PAPER NUMBER
3753	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/964,100	Applicant(s) OZAWA ET AL.
	Examiner Ljiljana (Lil) V. Ciric LVC	Art Unit 3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 January 2004 and on 3 May 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,4,6-9,11-13 and 15-20* is/are pending in the application.

4a) Of the above claim(s) *none* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,4,6-9,11-13 and 15-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 September 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *3 May 2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Office action is in response to the replies filed on January 12, 2004 and on May 3, 2004. Claims 1, 3, 4, 6 through 9, 11 through 13, and 15 through 20 remain in the application. Of these, 16 through 20 are new, and the remainder are as amended, either directly or indirectly.

Response to Arguments

2. Applicant's arguments filed on January 12, 2004 have been fully considered but they are not persuasive with regard to claims 1, 3, 4, 6 through 9, and 11 through 6 through 9, 11 through 13, and 15 because applicant's arguments rely on various portions of the front end structure being integral and/or on the rearrangement of parts within the structure. Nevertheless, as noted by the examiner previously with regard to these issues, absent a showing of criticality or unexpected results, merely making various elements of a structure integral and/or shifting the location of the elements of a system relative to each other is generally not inventive and does not impart patentability over the prior art. See *In re Larson*, 144 347 (CCPA 1965) and *In re Japikse*, 86 USPQ 70 (CCPA 1950).

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Claim Objections

3. Claims 1, 3, 4, 6 through 9, 11 through 13, and 15 through 20 are objected to because of the following informalities: "automobile vehicle" as cited in each of base claims 1, 4, and 16 should be replaced with "automotive vehicle" for improved consistency and grammatical correctness. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 3, 4, 6 through 9, 11 through 13, and 15 through 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "the axial flow fan being disposed in a portion of the shroud facing the rear end of the automobile vehicle" [sic] which has been added to each of base claims 1, 4, and 16 is not clear as written, thus rendering indefinite these claims and all claims depending therefrom. In particular, it is not clear whether the limitations are intended to specify that the axial flow fan is disposed in a portion of the shroud and also "faces" the rear end of the vehicle or whether the limitations are intended to specify that the axial flow fan is disposed in that portion of the shroud which "faces" the rear end of the vehicle. In either case, it is also not entirely clear which particular configurations are encompassed by the recitation of either the axial fan or the shroud "facing" the rear end of the vehicle, since neither it is not clear what the "face" of either a shroud or an axial fan is.

Claim Rejections - 35 U.S.C. § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

> to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. As best can be understood in view of the indefiniteness of the claims, claims 1, 3, 4, 6 through 9, 11 through 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Latcau (filed July 30, 1999)* in view of *Daimler-Benz AG (DE 36 30 646C1, of record)* or, alternately, in view of *Nissan Shatai Co. Ltd. (JP Publication No. 01109182A, of record).*

Latcau discloses a modular vehicle front end structure essentially as claimed, including a plastic or resinous front end structure or assembly 1 essentially as claimed, including horizontally extending beams or portions 131 [see Figure 1] as well as a cooling apparatus 50 fixed directly to the front end structure or assembly 1, where the cooling apparatus 50 is insertable into the front end structure or assembly 1 from the rear end of the vehicle [see Figure 2]. *Latcau* also discloses integrating various additional elements (such as a fan shroud) into the front end structure or assembly 1 front end panel [see column 2, lines 28-29; also, column 4, lines 27-28], although, in general, absent the disclosure of unexpected results, simply making a structure integral is not inventive anyway. See *In re Larson*, 144 USPQ 347 (CCPA 1965).

Regarding the cooling apparatus 50, *Latcau* notes that the cooling apparatus 50 "typically comprises an engine cooling radiator, a condenser for an air conditioning and/or an oil cooler, together with a fan, fan motor and shroud" [see column 3, lines 58-60]. While *Latcau* does not provide specifics regarding the relative location of the aforementioned elements which typically comprise the cooling apparatus 50, it is hereby noted that, absent unexpected results resulting therefrom, it is an obvious matter of design choice and not inventive to shift the relative location of parts, such as the relative location of the radiator, condenser, and fan within the cooling apparatus 50. See *In re Japikse*, 86 USPQ 70 (CCPA 1950). Furthermore, it is well-known in the art and taught by each of *Daimler-Benz AG* and *Nissan Shatai Co. Ltd.* to specifically dispose a fan forward or upstream of the radiator and condenser or other heat exchange within a front end structure assembly in order to, for example, increase the distance

between the coolant-carrying radiator and the front bumper of the car to therefore reduce damage to the radiator and the coolant system in the case of a front-end collision.

Also, while Latcau does not specifically disclose the fan as being an axial flow fan, Official Notice is hereby taken that axial flow fans are well-known in the art of designing vehicular air conditioning systems.

Thus it would have been obvious to one skilled in the art at the time of invention to modify the front end structure or assembly 1 of *Latcau* by specifically disposing the fan forward or upstream of the radiator and condenser in the front end structure or assembly as taught by each of *Daimler-Benz AG* and *Nissan Shatai Co. Ltd.* in order to minimize coolant system damage resulting from minor front-end collisions, for example. It would have been furthermore obvious to one skilled in the art at the time of invention to specifically use an axial flow fan to blow airthrough the vehicular front end structure and associated vehicular air conditioning system in order to minimize the size of the structure, for example.

Allowable Subject Matter

8. Claims 16 through 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric, whose telephone number is (703) 308-3925. While she works a flexible schedule that varies from day to day and from week to week, Examiner Ciric may generally be reached at the Office during the work week between the hours of 10 a.m. and 6 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel, can be reached on (703) 308-1272.

The NEW central official fax phone number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

lvc

August 9, 2004

LJILJANA V. CIRIC
PRIMARY EXAMINER
ART UNIT 3753